

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

Angel Ruiz Rivera and
Instituto de Educacion Universal

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U.S. DISTRICT COURT
SAN JUAN, P.R.

v.

98-2225 (RLA)

United States Department of Education
Et Al.

NOTICE OF APPEAL

TO THE HONORABLE DISTRICT (HDC):

Comes now the Co-Plaintiff/ Co-Appellant, Instituto de Educacion Universal (IEU), appearing here through the undersigning counsel, and respectfully states, alleges and prays as follows:

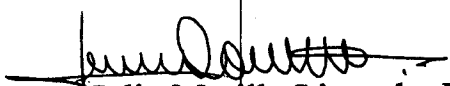
1. That on January 18, 2006, this HDC issued an Order in the instant case denying IEU's, Motion For Relief of Judgment, timely filed by this appearing counsel, pursuant to Federal Rule of Civil Procedure 60 (b)(3).
2. That according to the opinion of the Honorable U.S. Court of Appeals for the Seventh Circuit in Boyko v. Anderson, 185 F.3d 672 (7th.Cir. 7/19/1999), there are conflicts among the Honorable Circuits as to whether "the district court is at least authorized to

deny a Rule 60(b) motion pending appeal”, which is precisely the *status quo* of the instant case as a result of impending appeal (05-1775).

3. Since according to this above cited opinion, which is much more recent than the apparently applicable one in the Honorable U.S. Court of Appeals for the First Circuit (HUSCA1C), which appears to be *Commonwealth of Puerto Rico v. SS Zoe Colocotroni*, 601 F.2d 39 (1st Cir. 07/10/1979), it is not perfectly clear if this HDC’s Order issued is valid in view of the deference that the district courts should owe to the circuit courts and the question of whether jurisdiction is reserved to the higher court and not the lower, while an appeal is pending, I am regardless of the conflict and uncertainty, respectfully filing this Notice of Appeal on behalf of IEU, pursuant to Federal Rule of Appellate Procedure (FRAP) 4, in case the Order may be deemed valid after all by higher authorities.

For all the above stated reasons, I respectfully pray that this timely filed Notice of Appeal, of the HDC’s January 18, 2006 Order is properly filed on behalf of IEU. So I state, allege and pray.

Respectfully submitted, today March 2, 2006.



Julio Morillo Limardo, Esq.

USDC No. 130811

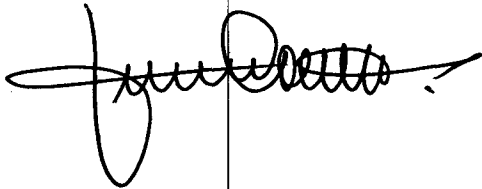
Avenida Betances I-17

Bayamon, P.R. 00959.

787-485-5437

Certificate of Service

I, Julio Morillo Limardo, Esq., appearing for Co-Plaintiff IEU, hereby certify that a copy of this Notice is being served today through priority mail of the U.S. Postal Service to the appearing counsel for the Defendant, Ms. Isabel Munoz Acosta, Esq., to the U.S. Attorney's Office for the District of Puerto Rico, Civil Division, Plaza Chardon Suite 1201, 350 Chardon Ave. Hato Rey, P.R. 00918 and to Angel Ruiz Rivera, appearing Pro Se as Co-Plaintiff on his own right.



**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

INSTITUTO DE EDUCACION UNIVERSAL,
et al.

v.

CASE NUMBER: CIVIL 98-2225 (RLA)

UNITED STATES DEPARTMENT OF
EDUCATION

ORDER

MOTION	RULING
Date Filed: 10/25/05 Docket # 95 [X] Co-Plaintiff INSTITUTO DE EDUCACION UNIVERSAL Title: Motion For Relief From Judgment	DENIED. This action is on appeal.

January 18, 2006
Date

S/Raymond L. Acosta
RAYMOND L. ACOSTA
U.S. District Judge

Rec'd:	EOD:
By:	#